

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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CARLA WOODS and JEFFERY GOLDBERG, as	:	
Stockholders' Representative and Trustees of the	:	<u>PRELIMINARY</u>
Bionics Trust,	:	<u>INJUNCTION</u>
	:	
Plaintiff,	:	
	:	06 Civ. 5380 (AKH)
-against-	:	
	:	
BOSTON SCIENTIFIC CORPORATION,	:	
	:	
Defendant.	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:		

Upon the Motion for Preliminary Injunction of Plaintiffs Carla Woods and Jeffrey Goldberg, as Stockholders' Representative and Trustees of the Bionics Trust ("Plaintiffs"), filed July 17, 2006 (the "Motion"), the declarations and exhibits in support of the Motion submitted by Plaintiffs, the declarations and exhibits in opposition to the Motion submitted by Defendant Boston Scientific Corporation ("Boston Scientific"), the testimony of witnesses at a three-day preliminary injunction hearing commencing on September 11, 2006 before United States Magistrate Judge Theodore H. Katz; and Magistrate Judge Katz having submitted a November 1, 2006 Report and Recommendation on the Motion to the Court; and the Court having conducted a de novo review of the record and having studied the Report and Recommendation and the parties' objections and additional submissions; and the Court having issued its Opinion and Order Accepting the Report and Recommendation of the United States Magistrate Judge, with Modifications (Am. Order, Feb. 9, 2007) ; and the Court having jurisdiction to consider Plaintiffs' Motion and the relief requested therein pursuant to 28 U.S.C. § 1332; and the Court having determined that venue is proper before this Court pursuant to 28 U.S.C. § 1391; and the Court having found that Plaintiffs are likely to succeed

on their claims that Boston Scientific breached the Agreement and Plan of Merger among Boston Scientific Corporation, Scimed Life Systems, Inc., Claude Acquisition Corp., Advanced Bionics Corporation, Bionics Trust and Alfred E. Mann, Jeffrey H. Greiner, and David MacCallum, Collectively in Their Capacity as Stockholders' Representative Dated as of May 28, 2004 ("Merger Agreement"), and that Plaintiffs will be irreparably damaged if Boston Scientific is not enjoined; IT IS HEREBY ORDERED:

1. Boston Scientific and its officers, agents, servants, employees, attorneys, successors and assigns, and all persons, firms and corporations in active concert or participation with Boston Scientific who receive actual notice of this order by personal service or otherwise, are enjoined individually, jointly and severally, pending entry of final judgment, from: (A) Terminating Alfred E. Mann and/or Jeffrey H. Greiner as co-Chief Executive Officers of Advanced Bionics Corporation ("Bionics"), or taking any action intended to cause, or which the enjoined defendants believe will have the effect of causing, Mann or Greiner to leave Bionics, other than, in good faith and pursuant to the Merger Agreement, presenting a proposal to the Executive Board to terminate Mann and/or Greiner, and, if that does not succeed, instituting and completing the dispute resolution procedures in Section 5.04(g)(i) of the Merger Agreement; and (B) In the event that James Tobin acts to terminate Mann and/or Greiner as co-chief executive officer after the dispute resolution process of Section 5.04(g)(i) of the Merger Agreement is complete, taking any action to prevent either or both Mann and/or Greiner from continuing in the functioning of the duties and responsibilities of their office until Mann and BSC's CEO mutually agree on the identity of Mann's and/or Greiner's successor.

2. This order is conditioned on the filing by Plaintiffs, pursuant to Federal Rule of Civil Procedure 65(c), of security, in form and substance satisfactory to the court, in the amount of \$100,000, for the payment of such costs and damages as may be incurred or suffered by any party who is found to have been wrongfully enjoined or restrained by this order.

SO ORDERED.

Dated: New York, New York
February 20, 2007

A handwritten signature in black ink, appearing to read 'Alvin K. Hellerstein', with a long horizontal flourish extending to the right.

ALVIN K. HELLERSTEIN
United States District Judge